



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0203/P5

RCT&MES:cjs:rs

slays

P6
fmr

DOA:.....Miner, BB0112 - Change farmland preservation program

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

D-NOTE

NO NOT
NOT
NOT

- 1 AN ACT ~~relating to~~; relating to: farmland preservation, the farmland preservation tax
2 credit, the farmland tax relief credit, making an appropriation, and granting
3 rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 4 SECTION 1. 20.115 (7) (dm) of the statutes is created to read:
5 20.115 (7) (dm) *Farmland preservation planning grants*. The amounts in the
6 schedule for farmland preservation planning grants under s. 91.10 (6). No moneys
7 may be encumbered under this paragraph after June 30, 2016.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

- 8 SECTION 2. 20.115 (7) (tb) of the statutes is created to read:

1 20.115 (7) (tb) *Principal and interest; agricultural conservation easements,*
2 *working lands fund.* From the working lands fund, the amounts in the schedule to
3 reimburse s. 20.866 (1) (u) for the principal and interest costs incurred in purchasing
4 agricultural conservation easements under s. 93.73, to make the payments
5 determined by the building commission under s. 13.488 (1) (m) that are attributable
6 to the proceeds of obligations incurred to purchase those easements, and to make
7 payments under an agreement or ancillary arrangement entered into under s. 18.06
8 (8) (a).

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

 ****NOTE: This SECTION depends on the inclusion of LRB-0202 in the bill. If that
draft is not included, this SECTION must be deleted.

9 **SECTION 3.** 20.115 (7) (tg) of the statutes is created to read:

10 20.115 (7) (tg) *Agricultural conservation easements.* From the working lands
11 fund, the amounts in the schedule for the purchase of agricultural conservation
12 easements under s. 93.73.

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

 ****NOTE: This SECTION depends on the inclusion of LRB-0202 in the bill. If that
draft is not included, this SECTION must be deleted.

13 **SECTION 4.** 20.115 (7) (tm) of the statutes is created to read:

14 20.115 (7) (tm) *Farmland preservation planning grants, working lands fund.*
15 From the working lands fund, the amounts in the schedule for farmland preservation
16 planning grants under s. 91.10 (6).

 ****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

17 **SECTION 5.** 20.115 (7) (ts) of the statutes is created to read:

1 20.115 (7) (ts) *Working lands programs*. From the working lands fund, the
2 amounts in the schedule for administration of the farmland preservation program
3 under ch. 91 and the program to purchase conservation easements under s. 93.73.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: This reference in this SECTION to s. 93.73 depends on the inclusion of LRB-0202 in the bill. If that draft is not included, this SECTION must be modified.

4 **SECTION 6.** 20.835 (2) (d) of the statutes is repealed.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

5 **SECTION 7.** 20.835 (2) (dm) of the statutes is amended to read:

6 20.835 (2) (dm) *Farmland preservation credit*. A sum sufficient to pay the
7 aggregate claims approved under ~~subch. IX of ch. 71~~ ss. 71.57 to 71.61.

8 **SECTION 8.** 20.835 (2) (do) of the statutes is created to read:

9 20.835 (2) (do) *Farmland preservation credit, 2010 and beyond*. A sum
10 sufficient to pay the aggregate claims approved under s. 71.613 (2), to the extent that
11 these claims are not paid under par. (qb).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

12 **SECTION 9.** 20.835 (2) (q) of the statutes is amended to read:

13 20.835 (2) (q) *Farmland tax relief credit*. From the lottery fund, a sum
14 sufficient to pay the aggregate claims approved under ss. 71.07 (3m) (c), 71.28 (2m)
15 (c), and 71.47 (2m) (c), to the extent that these claims are not paid under par. (ka).
16 No moneys may be encumbered or expended from this appropriation account during
17 1999-00, or for a taxable year that begins after December 31, 2009.

****NOTE: You may want to ask DOR if the appropriation under s. 20.835 (2) (ka) is sufficient to pay any claims under the farmland tax relief credit once the lottery fund may no longer be used as a revenue source.

18 **SECTION 10.** 20.835 (2) (qb) of the statutes is created to read:

20.835 (2) (qb) *Farmland preservation credit, 2010 and beyond; lottery fund.*

From the lottery fund, the amounts in the schedule to pay the aggregate claims approved under s. 71.613 (2).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 11. 20.866 (1) (u) of the statutes is amended to read:

20.866 (1) (u) *Principal repayment and interest.* A sum sufficient from moneys appropriated under sub. (2) (zp) and ss. 20.115 (2) (d) and (7) (b), (f), ~~and~~ (s), and (tb), 20.190 (1) (c), (d), (i), and (j), 20.225 (1) (c) and (i), 20.245 (1) (e) and (j), 20.250 (1) (c) and (e), 20.255 (1) (d), 20.285 (1) (d), (db), (im), (in), (je), (jq), (kd), (km), and (ko) and (5) (i), 20.320 (1) (c) and (t) and (2) (c), 20.370 (7) (aa), (ac), (ag), (aq), (ar), (at), (au), (bq), (br), (ca), (cb), (cc), (cd), (ce), (cf), (cg), (ea), (eq), and (er), 20.395 (6) (af), (aq), (ar), and (au), 20.410 (1) (e), (ec), and (ko) and (3) (e), 20.435 (2) (ee) and (6) (e), 20.465 (1) (d), 20.485 (1) (f) and (go), (3) (t) and (4) (qm), 20.505 (4) (es), (et), (ha), and (hb) and (5) (c), (g), (kc), and (kd), 20.855 (8) (a), and 20.867 (1) (a) and (b) and (3) (a), (b), (bm), (bn), (bp), (bq), (br), (bu), (bv), (g), (h), (i), and (q) for the payment of principal, interest, premium due, if any, and payment due, if any, under an agreement or ancillary arrangement entered into under s. 18.06 (8) (a) relating to any public debt contracted under subchs. I and IV of ch. 18.

SECTION 12. 23.094 (2) (c) 3. of the statutes is repealed.

SECTION 13. 25.17 (1) (yx) of the statutes is created to read:

25.17 (1) (yx) Working lands fund (s. 25.466);

SECTION 14. 25.466 of the statutes is created to read:

1 **25.466 Working lands fund.** There is created a separate trust fund
2 designated as the working lands fund, consisting of all moneys received under ss.
3 91.48 (2) (c) and 91.66 (1) (c).

4 **SECTION 15.** 30.29 (3) (b) of the statutes is amended to read:

5 30.29 (3) (b) *Agriculture activities.* A person operating a motor vehicle while
6 the person is engaged in agricultural use, as defined under s. 91.01 (1) (2).

7 **SECTION 16.** 32.035 (1) (b) of the statutes is amended to read:

8 32.035 (1) (b) "Farm operation" means any activity conducted solely or
9 primarily for the production of one or more agricultural commodities resulting from
10 an agricultural use, as defined in s. 91.01 (1) (2), for sale and home use, and
11 customarily producing the commodities in sufficient quantity to be capable of
12 contributing materially to the operator's support.

13 **SECTION 17.** 66.0307 (7m) of the statutes is amended to read:

14 66.0307 (7m) **ZONING IN TOWN TERRITORY.** If a town is a party to a cooperative
15 plan with a city or village, the town and city or village may agree, as part of the
16 cooperative plan, to authorize the town, city or village to adopt a zoning ordinance
17 under s. 60.61, 61.35 or 62.23 for all or a portion of the town territory covered by the
18 plan. The exercise of zoning authority by a town under this subsection is not subject
19 to s. 60.61 (3) or 60.62 (3). If a county zoning ordinance applies to the town territory
20 covered by the plan, that ordinance and amendments to it continue until a zoning
21 ordinance is adopted under this subsection. If a zoning ordinance is adopted under
22 this subsection, that zoning ordinance continues in effect after the planning period
23 ceases until a different zoning ordinance for the territory is adopted under other
24 applicable law. This subsection does not affect zoning ordinances adopted under ss.
25 s. 59.692, or 87.30 or 91.71 to 91.78 ch. 91.

1 **SECTION 18.** 66.0721 (1) (a) of the statutes is amended to read:

2 66.0721 (1) (a) "Agricultural use" has the meaning given in s. 91.01 ~~(1)~~ (2) and
3 includes any additional agricultural uses of land, as determined by the town sanitary
4 district or town.

5 **SECTION 19.** 66.0721 (1) (b) of the statutes is amended to read:

6 66.0721 (1) (b) "Eligible farmland" means ~~a parcel of 35 or more acres of~~
7 ~~contiguous land which is devoted exclusively to agricultural use which during the~~
8 ~~year preceding the year in which the land is subject to a special assessment under~~
9 ~~this section produced gross farm profits, as defined in s. 71.58 (4), of not less than~~
10 ~~\$6,000 or which, during the 3 years preceding the year in which the land is subject~~
11 ~~to a special assessment under this section, produced gross farm profits, as defined~~
12 ~~in s. 71.58 (4), of not less than \$18,000 that is eligible for farmland preservation tax~~
13 credits under ss. 71.58 to 71.61 or 71.613.

14 **SECTION 20.** 71.07 (2fd) of the statutes is repealed.

15 **SECTION 21.** 71.07 (3m) (a) 1. (intro.) of the statutes is amended to read:

16 71.07 **(3m)** (a) 1. (intro.) "Claimant" means an owner of farmland, as defined
17 in s. 91.01 (9), 2007 stats., of farmland domiciled in this state during the entire year
18 for which a credit under this subsection is claimed, except as follows:

 ****NOTE: Section 91.01 (9) defines "owner," not "farmland."

19 **SECTION 22.** 71.07 (3m) (a) 3. of the statutes is amended to read:

20 71.07 **(3m)** (a) 3. "Farmland" means 35 or more acres of real property, exclusive
21 of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007
22 stats., and owned by the claimant or any member of the claimant's household during
23 the taxable year for which a credit under this subsection is claimed if the farm of
24 which the farmland is a part, during that year, produced not less than \$6,000 in gross

1 farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or
2 if the farm of which the farmland is a part, during that year and the 2 years
3 immediately preceding that year, produced not less than \$18,000 in such profits, or
4 if at least 35 acres of the farmland, during all or part of that year, was enrolled in the
5 conservation reserve program under 16 USC 3831 to 3836.

6 **SECTION 23.** 71.07 (3m) (a) 4. of the statutes is amended to read:

7 71.07 (3m) (a) 4. "Gross farm profits" means gross receipts, excluding rent,
8 from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market
9 value at the time of disposition of payments in kind for placing land in federal
10 programs or payments from the federal dairy termination program under 7 USC
11 1446 (d), less the cost or other basis of livestock or other items purchased for resale
12 which are sold or otherwise disposed of during the taxable year.

13 **SECTION 24.** 71.07 (3m) (e) of the statutes is created to read:

14 71.07 (3m) (e) *Sunset.* No new claim may be filed under this subsection for a
15 taxable year that begins after December 31, 2009.

16 **SECTION 25.** 71.08 (1) (intro.) of the statutes is amended to read:

17 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
18 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
19 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), ~~(2fd)~~, (3m), (3n), (3p),
20 (3s), (3t), (3w), (5b), (5d), (5e), (5f), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj),
21 (1dL), (1ds), (1dx), ~~(1fd)~~, (2m), (3), (3n), (3t), and (3w), ~~and~~ 71.47 (1dd), (1de), (1di),
22 (1dj), (1dL), (1ds), (1dx), ~~(1fd)~~, (2m), (3), (3n), (3t), and (3w), ~~and subchs. 71.57 to~~
23 71.61, and 71.613 and subch. VIII and IX and payments to other states under s. 71.07
24 (7), is less than the tax under this section, there is imposed on that natural person,

1 married couple filing jointly, trust or estate, instead of the tax under s. 71.02, an
2 alternative minimum tax computed as follows:

3 **SECTION 26.** 71.10 (4) (i) of the statutes is amended to read:

4 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
5 preservation credit under ~~subch. IX ss. 71.57 to 71.61, farmland preservation credit,~~
6 2010 and beyond under s. 71.613, homestead credit under subch. VIII, farmland tax
7 relief credit under s. 71.07 (3m), ~~farmers' drought property tax credit under s. 71.07~~
8 ~~(2fd)~~, dairy manufacturing facility investment credit under s. 71.07 (3p), film
9 production services credit under s. 71.07 (5f) (b) 2., veterans and surviving spouses
10 property tax credit under s. 71.07 (6e), enterprise zone jobs credit under s. 71.07 (3w),
11 earned income tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09,
12 and taxes withheld under subch. X.

13 **SECTION 27.** 71.28 (1fd) of the statutes is repealed.

14 **SECTION 28.** 71.28 (2m) (a) 1. (intro.) of the statutes is amended to read:

15 71.28 (2m) (a) 1. (intro.) "Claimant" means an owner of farmland, as defined
16 in s. 91.01 (9), 2007 stats., of farmland domiciled in this state during the entire year
17 for which a credit under this subsection is claimed, except as follows:

18 **SECTION 29.** 71.28 (2m) (a) 3. of the statutes is amended to read:

19 71.28 (2m) (a) 3. "Farmland" means 35 or more acres of real property, exclusive
20 of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007
21 stats., and owned by the claimant or any member of the claimant's household during
22 the taxable year for which a credit under this subsection is claimed if the farm of
23 which the farmland is a part, during that year, produced not less than \$6,000 in gross
24 farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or
25 if the farm of which the farmland is a part, during that year and the 2 years

1 immediately preceding that year, produced not less than \$18,000 in such profits, or
2 if at least 35 acres of the farmland, during all or part of that year, was enrolled in the
3 conservation reserve program under 16 USC 3831 to 3836.

4 **SECTION 30.** 71.28 (2m) (a) 4. of the statutes is amended to read:

5 71.28 (2m) (a) 4. "Gross farm profits" means gross receipts, excluding rent,
6 from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market
7 value at the time of disposition of payments in kind for placing land in federal
8 programs or payments from the federal dairy termination program under 7 USC
9 1446 (d), less the cost or other basis of livestock or other items purchased for resale
10 which are sold or otherwise disposed of during the taxable year.

11 **SECTION 31.** 71.28 (2m) (e) of the statutes is created to read:

12 71.28 (2m) (e) *Sunset.* No new claim may be filed under this subsection for a
13 taxable year that begins after December 31, 2009.

14 **SECTION 32.** 71.30 (3) (f) of the statutes is amended to read:

15 71.30 (3) (f) ~~The total of farmers' drought property tax credit under s. 71.28~~
16 ~~(1fd),~~ farmland preservation credit under subch. IX, farmland tax relief credit under
17 s. 71.28 (2m), dairy manufacturing facility investment credit under s. 71.28 (3p),
18 enterprise zone jobs credit under s. 71.28 (3w), film production services credit under
19 s. 71.28 (5f) (b) 2., and estimated tax payments under s. 71.29.

20 **SECTION 33.** 71.47 (1fd) of the statutes is repealed.

21 **SECTION 34.** 71.47 (2m) (a) 1. (intro.) of the statutes is amended to read:

22 71.47 (2m) (a) 1. (intro.) "Claimant" means an owner of farmland, as defined
23 in s. 91.01 (9), 2007 stats., of farmland domiciled in this state during the entire year
24 for which a credit under this subsection is claimed, except as follows:

25 **SECTION 35.** 71.47 (2m) (a) 3. of the statutes is amended to read:

1 71.47 (2m) (a) 3. "Farmland" means 35 or more acres of real property, exclusive
2 of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007
3 stats., and owned by the claimant or any member of the claimant's household during
4 the taxable year for which a credit under this subsection is claimed if the farm of
5 which the farmland is a part, during that year, produced not less than \$6,000 in gross
6 farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or
7 if the farm of which the farmland is a part, during that year and the 2 years
8 immediately preceding that year, produced not less than \$18,000 in such profits, or
9 if at least 35 acres of the farmland, during all or part of that year, was enrolled in the
10 conservation reserve program under 16 USC 3831 to 3836.

11 **SECTION 36.** 71.47 (2m) (a) 4. of the statutes is amended to read:

12 71.47 (2m) (a) 4. "Gross farm profits" means gross receipts, excluding rent,
13 from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market
14 value at the time of disposition of payments in kind for placing land in federal
15 programs or payments from the federal dairy termination program under 7 USC
16 1446 (d), less the cost or other basis of livestock or other items purchased for resale
17 which are sold or otherwise disposed of during the taxable year.

18 **SECTION 37.** 71.47 (2m) (e) of the statutes is created to read:

19 71.47 (2m) (e) *Sunset.* No new claim may be filed under this subsection for a
20 taxable year that begins after December 31, 2009.

21 **SECTION 38.** 71.49 (1) (f) of the statutes is amended to read:

22 71.49 (1) (f) The total of ~~farmers' drought property tax credit under s. 71.47~~
23 ~~(1fd)~~, farmland preservation credit under subch. IX, farmland tax relief credit under
24 s. 71.47 (2m), dairy manufacturing facility investment credit under s. 71.47 (3p),

1 enterprise zone jobs credit under s. 71.47 (3w), film production services credit under
2 s. 71.47 (5f) (b) 2., and estimated tax payments under s. 71.48.

3 **SECTION 39.** 71.57 of the statutes is amended to read:

4 **71.57 Purpose.** The purpose of ~~this subchapter~~ ss. 71.58 to 71.61 is to provide
5 credit to owners of farmland which is subject to agricultural use restrictions, through
6 a system of income or franchise tax credits and refunds and appropriations from the
7 general fund.

8 **SECTION 40.** 71.58 (intro.) of the statutes is amended to read:

9 **71.58 Definitions.** (intro.) In ~~this subchapter~~ ss. 71.57 to 71.61:

10 **SECTION 41.** 71.58 (1) (intro.) of the statutes is amended to read:

11 71.58 (1) (intro.) "Claimant" means an owner of farmland, as defined in s. 91.01
12 (9), 2007 stats., domiciled in this state during the entire year for which a credit under
13 ~~this subchapter~~ ss. 71.57 to 71.61 is claimed, except as follows:

14 **SECTION 42.** 71.58 (1) (b) of the statutes is amended to read:

15 71.58 (1) (b) If any person in a household has claimed or will claim credit under
16 subch. VIII, all persons from that household are ineligible to claim any credit under
17 ~~this subchapter~~ ss. 71.57 to 71.61 for the year to which the credit under subch. VIII
18 pertained.

19 **SECTION 43.** 71.58 (1) (d) of the statutes is amended to read:

20 71.58 (1) (d) For purposes of filing a claim under ~~this subchapter~~ ss. 71.57 to
21 71.61, the personal representative of an estate and the trustee of a trust shall be
22 deemed owners of farmland. "Claimant" does not include the estate of a person who
23 is a nonresident of this state on the person's date of death, a trust created by a
24 nonresident person, a trust which receives Wisconsin real property from a

1 nonresident person or a trust in which a nonresident settlor retains a beneficial
2 interest.

3 **SECTION 44.** 71.58 (1) (e) of the statutes is amended to read:

4 71.58 (1) (e) For purposes of filing a claim under ~~this subchapter ss. 71.57 to~~
5 71.61, when land is subject to a land contract, the claimant shall be the vendee under
6 the contract.

7 **SECTION 45.** 71.58 (1) (f) of the statutes is amended to read:

8 71.58 (1) (f) For purposes of filing a claim under ~~this subchapter ss. 71.57 to~~
9 71.61, when a guardian has been appointed in this state for a ward who owns the
10 farmland, the claimant shall be the guardian on behalf of the ward.

11 **SECTION 46.** 71.58 (3) of the statutes is amended to read:

12 71.58 (3) "Farmland" means 35 or more acres of real property in this state
13 owned by the claimant or any member of the claimant's household during the taxable
14 year for which a credit under ~~this subchapter ss. 71.57 to 71.61~~ is claimed if the
15 farmland, during that year, produced not less than \$6,000 in gross farm profits
16 resulting from the farmland's agricultural use, as defined in s. 91.01 (1), 2007 stats.,
17 or if the farmland, during that year and the 2 years immediately preceding that year,
18 produced not less than \$18,000 in such profits, or if at least 35 acres of the farmland,
19 during all or part of that year, was enrolled in the conservation reserve program
20 under 16 USC 3831 to 3836.

21 **SECTION 47.** 71.58 (4) of the statutes is amended to read:

22 71.58 (4) "Gross farm profits" means gross receipts, excluding rent, from
23 agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market
24 value at the time of disposition of payments in kind for placing land in federal
25 programs or payments from the federal dairy termination program under 7 USC

1 1446 (d), less the cost or other basis of livestock or other items purchased for resale
2 which are sold or otherwise disposed of during the taxable year.

3 **SECTION 48.** 71.58 (8) of the statutes is amended to read:

4 71.58 (8) "Property taxes accrued" means property taxes, exclusive of special
5 assessments, delinquent interest and charges for service, levied on the farmland and
6 improvements owned by the claimant or any member of the claimant's household in
7 any calendar year under ch. 70, less the tax credit, if any, afforded in respect of the
8 property by s. 79.10. "Property taxes accrued" shall not exceed \$6,000. If farmland
9 is owned by a tax-option corporation, a limited liability company or by 2 or more
10 persons or entities as joint tenants, tenants in common or partners or is marital
11 property or survivorship marital property and one or more such persons, entities or
12 owners is not a member of the claimant's household, "property taxes accrued" is that
13 part of property taxes levied on the farmland, reduced by the tax credit under s.
14 79.10, that reflects the ownership percentage of the claimant and the claimant's
15 household. For purposes of this subsection, property taxes are "levied" when the tax
16 roll is delivered to the local treasurer for collection. If farmland is sold during the
17 calendar year of the levy the "property taxes accrued" for the seller is the amount of
18 the tax levy, reduced by the tax credit under s. 79.10, prorated to each in the closing
19 agreement pertaining to the sale of the farmland, except that if the seller does not
20 reimburse the buyer for any part of those property taxes there are no "property taxes
21 accrued" for the seller, and the "property taxes accrued" for the buyer is the property
22 taxes levied on the farmland, reduced by the tax credit under s. 79.10, minus, if the
23 seller reimburses the buyer for part of the property taxes, the amount prorated to the
24 seller in the closing agreement. With the claim for credit under this subchapter ss.

1 71.57 to 71.61, the seller shall submit a copy of the closing agreement and the buyer
2 shall submit a copy of the closing agreement and a copy of the property tax bill.

3 **SECTION 49.** 71.59 (1) (a) of the statutes is amended to read:

4 71.59 (1) (a) Subject to the limitations provided in ~~this subchapter~~ ss. 71.57 to
5 71.61 and s. 71.80 (3) and (3m), a claimant may claim as a credit against Wisconsin
6 income or franchise taxes otherwise due, the amount derived under s. 71.60. If the
7 allowable amount of claim exceeds the income or franchise taxes otherwise due on
8 or measured by the claimant's income or if there are no Wisconsin income or franchise
9 taxes due on or measured by the claimant's income, the amount of the claim not used
10 as an offset against income or franchise taxes shall be certified to the department of
11 administration for payment to the claimant by check, share draft or other draft
12 drawn on the general fund.

13 **SECTION 50.** 71.59 (1) (b) (intro.) of the statutes is amended to read:

14 71.59 (1) (b) (intro.) Every claimant under ~~this subchapter~~ ss. 71.57 to 71.61
15 shall supply, at the request of the department, in support of the claim, all of the
16 following:

17 **SECTION 51.** 71.59 (1) (b) 4. of the statutes is amended to read:

18 71.59 (1) (b) 4. Certification by the claimant that each county land conservation
19 committee with jurisdiction over the farmland has been notified that the claimant
20 intends to submit a claim under ~~this subchapter~~ ss. 71.57 to 71.61.

21 **SECTION 52.** 71.59 (1) (c) of the statutes is amended to read:

22 71.59 (1) (c) A farmland preservation agreement submitted under par. (b) 3.
23 shall contain provisions specified under s. 91.13 (8), 2007 stats., including either a
24 provision requiring farming operations to be conducted in substantial accordance
25 with a soil and water conservation plan prepared under s. 92.104, 2007 stats., or a

1 provision requiring farming operations to be conducted in compliance with
2 reasonable soil and water conservation standards established under s. 92.105, 2007
3 stats.

4 **SECTION 53.** 71.59 (1) (d) 1. of the statutes is amended to read:

5 71.59 (1) (d) 1. That the lands are within the boundaries of an agricultural
6 zoning district which is part of an adopted ordinance meeting the standards of subch.
7 V of ch. 91, 2007 stats., and certified under s. 91.06, 2007 stats.

8 **SECTION 54.** 71.59 (1) (d) 5. of the statutes is amended to read:

9 71.59 (1) (d) 5. That soil and water conservation standards applicable to the
10 land are established and approved as required under s. 92.105 (1) to (3), 2007 stats.,
11 and that no notice of noncompliance is in effect under s. 92.105 (5), 2007 stats., with
12 respect to the claimant at the time the certificate is issued.

13 **SECTION 55.** 71.59 (2) (intro.) of the statutes is amended to read:

14 71.59 (2) INELIGIBLE CLAIMS. (intro.) No credit shall be allowed under this
15 subchapter ss. 71.57 to 71.61:

16 **SECTION 56.** 71.59 (2) (b) of the statutes is amended to read:

17 71.59 (2) (b) If a notice of noncompliance with an applicable soil and water
18 conservation plan under s. 92.104, 2007 stats., is in effect with respect to the
19 claimant at the time the claim is filed.

20 **SECTION 57.** 71.59 (2) (c) of the statutes is amended to read:

21 71.59 (2) (c) If a notice of noncompliance with applicable soil and water
22 conservation standards under s. 92.105, 2007 stats., is in effect with respect to the
23 claimant at the time the claim is filed.

24 **SECTION 58.** 71.59 (2) (d) of the statutes is amended to read:

1 71.59 (2) (d) For property taxes accrued on farmland zoned for exclusive
2 agricultural use under an ordinance certified under subch. V of ch. 91, 2007 stats.,
3 which is granted a special exception or conditional use permit for a use which is not
4 an agricultural use, as defined in s. 91.01 (1), 2007 stats.

5 **SECTION 59.** 71.59 (2) (e) of the statutes is amended to read:

6 71.59 (2) (e) If the department determines that ownership of the farmland has
7 been transferred to the claimant primarily for the purpose of maximizing benefits
8 under ~~this subchapter~~ ss. 71.57 to 71.61.

9 **SECTION 60.** 71.60 (1) (b) of the statutes is amended to read:

10 71.60 (1) (b) The credit allowed under ~~this subchapter~~ ss. 71.57 to 71.61 shall
11 be limited to 90% of the first \$2,000 of excessive property taxes plus 70% of the 2nd
12 \$2,000 of excessive property taxes plus 50% of the 3rd \$2,000 of excessive property
13 taxes. The maximum credit shall not exceed \$4,200 for any claimant. The credit for
14 any claimant shall be the greater of either the credit as calculated under ~~this~~
15 ~~subchapter~~ ss. 71.57 to 71.61 as it exists at the end of the year for which the claim
16 is filed or as it existed on the date on which the farmland became subject to a current
17 agreement under subch. II or III of ch. 91, 2007 stats., using for such calculations
18 household income and property taxes accrued of the year for which the claim is filed.

19 **SECTION 61.** 71.60 (1) (c) 1. of the statutes is amended to read:

20 71.60 (1) (c) 1. If the farmland is located in a county which has a certified
21 agricultural preservation plan under subch. IV of ch. 91, 2007 stats., at the close of
22 the year for which credit is claimed and is in an area zoned by a county, city or village
23 for exclusive agricultural use under ch. 91, 2007 stats., at the close of such year, the
24 amount of the claim shall be that as specified in par. (b).

25 **SECTION 62.** 71.60 (1) (c) 2. of the statutes is amended to read:

1 71.60 (1) (c) 2. If the farmland is subject to a transition area agreement under
2 subch. II of ch. 91, 2007 stats., on July 1 of the year for which credit is claimed, or the
3 claimant had applied for such an agreement before July 1 of such year and the
4 agreement has subsequently been executed, and the farmland is located in a city or
5 village which has a certified exclusive agricultural use zoning ordinance under
6 subch. V of ch. 91, 2007 stats., in effect at the close of the year for which credit is
7 claimed, or in a town which is subject to a certified county exclusive agricultural use
8 zoning ordinance under subch. V of ch. 91, 2007 stats., in effect at the close of the year
9 for which credit is claimed, the amount of the claim shall be that as specified in par.
10 (b).

11 **SECTION 63.** 71.60 (1) (c) 3. of the statutes is amended to read:

12 71.60 (1) (c) 3. If the claimant or any member of the claimant's household owns
13 farmland which is ineligible for credit under subd. 1. or 2. but was subject to a
14 farmland preservation agreement under subch. III of ch. 91, 2007 stats., on July 1
15 of the year for which credit is claimed, or the owner had applied for such an
16 agreement before July 1 of such year and the agreement has subsequently been
17 executed, and if the owner has applied by the end of the year in which conversion
18 under s. 91.41, 2007 stats., is first possible for conversion of the agreement to a
19 transition area agreement under subch. II of ch. 91, 2007 stats., and the transition
20 area agreement has subsequently been executed, and the farmland is located in a city
21 or village which has a certified exclusive agricultural use zoning ordinance under
22 subch. V of ch. 91, 2007 stats., in effect at the close of the year for which credit is
23 claimed, or in a town which is subject to a certified county exclusive agricultural use
24 zoning ordinance under subch. V of ch. 91, 2007 stats., in effect at the close of the year
25 for which credit is claimed, the amount of the claim shall be that specified in par. (b).

1 **SECTION 64.** 71.60 (1) (c) 4. of the statutes is amended to read:

2 71.60 (1) (c) 4. If the claimant or any member of the claimant's household owns
3 farmland which is ineligible for credit under subd. 1. or 2. but which is subject to a
4 farmland preservation agreement or a transition area agreement under subch. II of
5 ch. 91, 2007 stats., on July 1 of the year for which credit is claimed, or the owner had
6 applied for such an agreement before July 1 of such year and the agreement has
7 subsequently been executed, the amount of the claim shall be limited to 80% of that
8 specified in par. (b).

9 **SECTION 65.** 71.60 (1) (c) 5. of the statutes is amended to read:

10 71.60 (1) (c) 5. If the claimant or any member of the claimant's household owns
11 farmland which is ineligible for credit under subds. 1. to 4. but was subject to a
12 farmland preservation agreement under subch. III of ch. 91, 2007 stats., on July 1
13 of the year for which credit is claimed, or the owner had applied for such an
14 agreement before July 1 of such year and the agreement has subsequently been
15 executed, and if the owner has applied by the end of the year in which conversion
16 under s. 91.41, 2007 stats., is first possible for conversion of the agreement to an
17 agreement under subch. II of ch. 91, 2007 stats., and the agreement under subch. II
18 of ch. 91, 2007 stats., has subsequently been executed, the amount of the claim shall
19 be limited to 80% of that specified in par. (b).

20 **SECTION 66.** 71.60 (1) (c) 6. of the statutes is amended to read:

21 71.60 (1) (c) 6. If the farmland is located in an agricultural district under a
22 certified county agricultural preservation plan under subch. IV of ch. 91, 2007 stats.,
23 at the close of the year for which credit is claimed, and is located in an area zoned for
24 exclusive agricultural use under a certified town ordinance under subch. V of ch. 91,

1 2007 stats., at the close of such year, the amount of the claim shall be the amount
2 specified in par. (b).

3 **SECTION 67.** 71.60 (1) (c) 6m. of the statutes is amended to read:

4 71.60 (1) (c) 6m. If the farmland is located in an agricultural district under a
5 certified county agricultural preservation plan under subch. IV of ch. 91, 2007 stats.,
6 at the close of the year for which credit is claimed, and is located in an area zoned for
7 exclusive agricultural use under a certified county or town ordinance under subch.
8 V of ch. 91, 2007 stats., for part of a year but not at the close of that year because the
9 farmland became subject to a city or village extraterritorial zoning ordinance under
10 s. 62.23 (7a), the amount of the claim shall be equal to the amount that the claim
11 would have been under this section if the farmland were subject to a certified county
12 or town exclusive agricultural use ordinance at the close of the year.

13 **SECTION 68.** 71.60 (1) (c) 7. of the statutes is amended to read:

14 71.60 (1) (c) 7. If the farmland is located in an area zoned for exclusive
15 agricultural use under a certified county, city or village ordinance under subch. V of
16 ch. 91, 2007 stats., at the close of the year for which credit is claimed, but the county
17 in which the farmland is located has not adopted an agricultural preservation plan
18 under subch. IV of ch. 91, 2007 stats., by the close of such year, the amount of the
19 claim shall be limited to 70% of that specified in par. (b).

20 **SECTION 69.** 71.60 (1) (c) 8. of the statutes is amended to read:

21 71.60 (1) (c) 8. If the farmland is subject to a farmland preservation agreement
22 under subch. III of ch. 91, 2007 stats., on July 1 of the year for which credit is claimed
23 or the claimant had applied for such an agreement before July 1 of such year and the
24 agreement has subsequently been executed, the amount of the claim shall be limited
25 to 50% of that specified in par. (b).

1 **SECTION 70.** 71.60 (2) of the statutes is amended to read:

2 71.60 (2) If the farmland is subject to a certified ordinance under subch. V of
3 ch. 91, 2007 stats., or an agreement under subch. II of ch. 91, 2007 stats., in effect
4 at the close of the year for which the credit is claimed, the amount of the claim is 10%
5 of the property taxes accrued or the amount determined under sub. (1), whichever
6 is greater.

7 **SECTION 71.** 71.61 of the statutes is amended to read:

8 **71.61 General provisions. (1)** DEPARTMENT MAY APPLY CREDIT AGAINST ANY TAX
9 LIABILITY. The amount of any claim otherwise payable under this subchapter ss. 71.57
10 to 71.61 may be applied by the department against any amount certified to the
11 department under s. 71.93 or 71.935 or may be credited under s. 71.80 (3) or (3m).

12 **(2)** CREDITS ARE INCOME. All amounts allowed as credits under this subchapter
13 ss. 71.57 to 71.61 constitute income for income and franchise tax purposes and are
14 reportable as such in the year of receipt.

15 **(3)** INTEREST NOT ALLOWED. No interest may be allowed on any payment made
16 to a claimant under this subchapter ss. 71.57 to 71.61.

17 **(3m)** ADMINISTRATION. The income tax provisions in this chapter relating to
18 assessments, refunds, appeals and collection apply to the credit under this
19 subchapter ss. 71.57 to 71.61.

20 **(4)** PENALTIES. Unless specifically provided in this subchapter ss. 71.57 to
21 71.61, the penalties under subch. XIII apply for failure to comply with this
22 subchapter ss. 71.57 to 71.61 unless the context requires otherwise.

23 **(5)** TABLE PREPARED BY DEPARTMENT. The department shall prepare a table under
24 which claims under this subchapter ss. 71.57 to 71.61 shall be determined.

25 **SECTION 72.** 71.61 (6) of the statutes is created to read:

1 71.61 (6) PROHIBITION OF NEW CLAIMS. For taxable years beginning after
2 December 31, 2009, no new claims for a credit may be filed under ss. 71.57 to 71.61,
3 but if an otherwise eligible claimant is subject to a farmland preservation agreement,
4 as defined in s. 91.01 (7), 2007 stats., that is in effect on ~~January~~ ^{July} 1, 2010, the claimant
5 may continue to file a claim for the credit under ss. 71.57 to 71.61 until the farmland
6 preservation agreement expires, except that no claimant who files a claim under ss.
7 71.57 to 71.61 may file a claim under s. 71.613.

8 **SECTION 73.** 71.613 of the statutes is created to read:

9 **71.613 Farmland preservation credit, 2010 and beyond. (1) DEFINITIONS.**

10 In this section:

11 (a) "Agricultural use" has the meaning given in s. 91.01 (2).

12 (b) "Claimant" means a person who owns farmland in this state, or who owned
13 farmland in this state during the taxable year to which the claim under this section
14 relates, and who files a claim under this section, except that if any person in a
15 household has claimed or will claim credit under subch. VIII, all persons from that
16 household are ineligible to claim any credit under this section for the year to which
17 the credit under subch. VIII pertains.

18 (c) "Department" means the department of revenue.

19 (d) "Farm" means a farm, as defined in s. 91.01 (13), that has produced at least
20 \$6,000 in gross farm revenues during the taxable year to which the claim relates or,
21 in the taxable year to which the claim relates and the 2 immediately preceding
22 taxable years, at least \$18,000 in gross farm revenues.

23 (e) "Farmland preservation agreement" has the meaning given in s. 91.01 (15).

24 (f) "Farmland preservation zoning district" has the meaning given in s. 91.01
25 (18).

1 (g) "Gross farm revenues" means gross receipts from agricultural use of a farm,
2 excluding rent receipts, less the cost or other basis of livestock or other agricultural
3 items purchased for resale which are sold or otherwise disposed of during the taxable
4 year.

5 (ge) "Household" means an individual and his or her spouse and all minor
6 dependents.

7 (h) "Qualifying acres" means the number of acres of a farm that correlate to a
8 claimant's percentage of ownership interest in a farm to which one of the following
9 applies:

10 1. The farm is wholly or partially covered by a farmland preservation
11 agreement, except that if the farm is only partially covered, the qualifying acres
12 calculation includes only those acres which are covered by a farmland preservation
13 agreement.

14 2. The farm is located in a farmland preservation zoning district at the end of
15 the taxable year to which the claim relates.

16 3. If the claimant transferred the claimant's ownership interest in the farm
17 during the taxable year to which the claim relates, the farm was wholly or partially
18 covered by a farmland preservation agreement, or the farm was located in a farmland
19 preservation zoning district, on the date on which the claimant transferred the
20 ownership interest. For the purposes of this subdivision, a land contract is a transfer
21 of ownership interest.

22 (2) FILING CLAIMS ^(a) Subject to the limitations and conditions provided in sub. (3),
23 a claimant may claim as a credit against the tax imposed under s. 71.02, 71.08, 71.23,
24 or 71.43, an amount calculated by multiplying the claimant's qualifying acres by one
25 of the following amounts, and if the allowable amount of the claim exceeds the income

1 taxes otherwise due on the claimant's income or if there are no Wisconsin income
2 taxes due on the claimant's income, the amount of the claim not used as an offset
3 against income taxes shall be certified by the department of revenue to the
4 department of administration for payment to the claimant by check, share draft, or
5 other draft from the appropriations under s. 20.835 (2) (do) and (qb):

6 1. (a) Ten dollars, if the qualifying acres are located in a farmland preservation
7 zoning district and are also subject to a farmland preservation agreement that is
8 entered into after the effective date of this paragraph [LRB inserts date].

9 2. (b) Seven dollars and 50 cents, if the qualifying acres are located in a farmland
10 preservation zoning district but are not subject to a farmland preservation
11 agreement that is entered into after the effective date of this paragraph [LRB
12 inserts date].

13 3. (c) Five dollars, if the qualifying acres are subject to a farmland preservation
14 agreement that is entered into after the effective date of this paragraph [LRB
15 inserts date], but are not located in a farmland preservation zoning district.

INS 2375
16 (3) LIMITATIONS AND CONDITIONS. (a) No credit may be allowed under this section
17 unless all of the following apply:

18 1. The claimant ^{certifies to the department that} has paid, or is legally responsible for paying, the property taxes
19 levied against the qualifying acres to which the claim relates.

20 2. ^{The claimant certifies to the department that} At the end of the taxable year to which the claim relates or, on the date on
21 which the person transferred the person's ownership interest in the farm if the
22 transfer occurs during the taxable year to which the claim relates, there was no
23 outstanding notice of noncompliance issued against the farm under s. 91.82 (2).

24 3. The claimant submits to the department a certification of compliance with
25 soil and water conservation standards, as required by s. 91.80, issued by the county

1 land conservation committee unless, in the last preceding year, the claimant received
2 a tax credit under ss. 71.57 to 71.61 or this section for the same farm.

3 (b) If a farm is jointly owned by 2 or more persons who file separate income or
4 franchise tax returns, each person may claim a credit under this section based on the
5 person's ownership interest in the farm.

6 (c) If a person acquires or transfers ownership of a farm during a taxable year
7 for which a claim may be filed under this section, the person may file a claim under
8 this section based on the person's liability for the property taxes levied on the
9 person's qualifying acres for the taxable year to which the claim relates.

10 (d) A claimant shall claim the credit under this section on a form prepared by
11 the department and shall submit any documentation required by the department.
12 On the claim form, the claimant shall certify all of the following:

13 1. The number of qualifying acres for which the credit is claimed.

14 2. The location and tax parcel number for each parcel on which the qualifying
15 acres are located.

16 4. That the qualifying acres are covered by a farmland preservation agreement
17 or located in a farmland preservation zoning district, or both.

18 5. That the qualifying acres are part of a farm that complies with applicable
19 state soil and water conservation standards, as required by s. 91.80.

20 (e) No credit may be allowed under this section unless it is claimed within the
21 time period under s. 71.75 (2).

22 (f) The maximum amount of the credits that may be claimed under this section
23 in any fiscal year is \$27,280,000. If the total amount of eligible claims exceed this
24 amount, the department shall prorate the credits to ensure that the limit specified
25 in this paragraph is not exceeded.

(4) ADMINISTRATION. The department may enforce the credit under this section and may take any action, conduct any proceeding, and proceed as it is authorized in respect to taxes under this chapter. The income and franchise tax provisions in this chapter relating to assessments, refunds, appeals, collection, interest, and penalties apply to the credit under this section.

SECTION 74. Chapter 91 of the statutes is repealed and recreated to read:

CHAPTER 91

FARMLAND PRESERVATION

SUBCHAPTER I

DEFINITIONS AND GENERAL PROVISIONS

91.01 Definitions. In this chapter:

(1) “Accessory use” means any of the following land uses on a farm:

(a) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.

(b) An activity or business operation that is an integral part of, or incidental to, an agricultural use.

(c) A farm residence.

(d) A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in par. (a) or (c), that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.

(e) Any other use that the department, by rule, identifies as an accessory use.

1 **(1m)** "Agricultural enterprise area" means an area designated in accordance
2 with s. 91.84.

3 **(2)** "Agricultural use" means any of the following:

4 (a) Any of the following activities conducted for the purpose of producing an
5 income or livelihood:

6 1. Crop or forage production.

7 2. Keeping livestock.

8 3. Beekeeping.

9 4. Nursery, sod, or Christmas tree production.

10 4m. Floriculture.

11 5. Aquaculture.

12 6. Fur farming.

13 7. Forest management.

14 8. Enrolling land in a federal agricultural commodity payment program or a
15 federal or state agricultural land conservation payment program.

16 (b) Any other use that the department, by rule, identifies as an agricultural use.

17 **(3)** "Agriculture-related use" means any of the following:

18 (a) An agricultural equipment dealership, facility providing agricultural
19 supplies, facility for storing or processing agricultural products, or facility for
20 processing agricultural wastes.

21 (b) Any other use that the department, by rule, identifies as an
22 agriculture-related use.

23 **(5)** "Base farm tract" means one of the following:

24 (a) All land, whether one parcel or 2 or more contiguous parcels, that is in a
25 farmland preservation zoning district and that is part of a single farm when the

1 department under s. 91.36 (1) first certifies the farmland preservation zoning
2 ordinance covering the land, regardless of any subsequent changes in the size of the
3 farm.

4 (b) Any other tract that the department by rule defines as a base farm tract.

5 (6) "Certified farmland preservation plan" means a farmland preservation
6 plan that is certified as determined under s. 91.12.

7 (7) "Certified farmland preservation zoning ordinance" means a zoning
8 ordinance that is certified as determined under s. 91.32.

9 (8) "Chief elected official" means the mayor of a city or, if the city is organized
10 under subch. I of ch. 64, the president of the council of that city, the village president
11 of a village, the town board chairperson of a town, or the county executive of a county,
12 or, if the county does not have a county executive, the chairperson of the county board
13 of supervisors.

14 (9) "Comprehensive plan" has the meaning given in s. 66.1001 (1) (a).

15 (10) "Conditional use" means a use allowed under a conditional use permit,
16 special exception, or other special zoning permission issued by a political
17 subdivision.

18 (11) "County land conservation committee" means a committee created under
19 s. 92.06 (1).

20 (12) "Department" means the department of agriculture, trade and consumer
21 protection.

22 (13) "Farm" means all land under common ownership that is primarily devoted
23 to agricultural use.

24 (14) "Farm acreage" means size of a farm in acres.

1 **(15)** "Farmland preservation agreement" means any of the following
2 agreements between an owner of land and the department under which the owner
3 agrees to restrict the use of land in return for tax credits:

4 (a) A farmland preservation agreement or transition area agreement entered
5 into under s. 91.13, 2007 stats., or s. 91.14, 2007 stats.

6 (b) An agreement entered into under s. 91.60 (1).

7 **(16)** "Farmland preservation area" means an area that is planned primarily
8 for agricultural use or agriculture-related use, or both, and that is one of the
9 following:

10 (a) Identified as an agricultural preservation area or transition area in a
11 farmland preservation plan described in s. 91.12 (1).

12 (b) Identified under s. 91.10 (1) (d) in a farmland preservation plan described
13 in s. 91.12 (2).

14 **(17)** "Farmland preservation plan" means a plan for the preservation of
15 farmland in a county, including an agricultural preservation plan under subch. IV
16 of ch. 91, 2007 stats.

17 **(18)** "Farmland preservation zoning district" means any of the following:

18 (a) An area zoned for exclusive agricultural use under an ordinance described
19 in s. 91.32 (1).

20 (b) A farmland preservation zoning district designated under s. 91.38 (1) (c) in
21 an ordinance described in s. 91.32 (2).

22 **(19)** "Farm residence" means any of the following structures that is located on
23 a farm:

24 (a) A single-family or duplex residence that is the only residential structure
25 on the farm or is occupied by any of the following:

- 1 1. An owner or operator of the farm.
- 2 2. A parent or child of an owner or operator of the farm.
- 3 3. An individual who earns more than 50 percent of his or her gross income from
- 4 the farm.

5 (b) A migrant labor camp that is certified under s. 103.92.

6 (20) "Gross farm revenues" has the meaning given in s. 71.613 (1) (g).

7 (20m) "Livestock" means bovine animals, equine animals, goats, poultry,

8 sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and

9 farm-raised fish.

10 (21) "Nonfarm residence" means a single-family or multi-family residence

11 other than a farm residence.

12 (22) "Nonfarm residential acreage" means the total number of acres of all

13 parcels on which nonfarm residences are located.

14 (22m) "Overlay district" means a zoning district that is superimposed on one

15 or more other zoning districts and imposes additional restrictions on the underlying

16 districts.

17 (23) "Owner" means a person who has an ownership interest in land.

18 (23m) "Permitted use" means a use that is allowed without a conditional use

19 permit, special exception, or other special zoning permission.

20 (24) "Political subdivision" means a city, village, town, or county.

21 (25) "Prime farmland" means any of the following:

22 (a) An area with a class I or class II land capability classification as identified

23 by the natural resources conservation service of the federal department of

24 agriculture.

(b) Land, other than land described in par. (a), that is identified as prime farmland in a certified farmland preservation plan.

(26) "Prior nonconforming use" means a land use that does not conform with a farmland preservation zoning ordinance, but that existed lawfully before the farmland preservation zoning ordinance was enacted.

(27) "Protected farmland" means land that is located in a farmland preservation zoning district, is covered by a farmland preservation agreement, or is otherwise legally protected from nonagricultural development.

(28) "Taxable year" has the meaning given in s. 71.01 (12).

91.02 Rule making. (1) The department shall promulgate rules that set forth technical specifications for farmland preservation zoning maps under s. 91.38 (1) (d).

(2) The department may promulgate rules for the administration of this chapter, including rules that do any of the following:

(a) Identify accessory uses under s. 91.01 (1) (e).

(b) Identify agricultural uses under s. 91.01 (2) (b).

(c) Identify agriculture-related uses under s. 91.01 (3) (b).

(d) Identify base farm tracts under s. 91.01 (5) (b).

(e) Specify requirements for certification under s. 91.18 (1) (b).

(f) Require information in an application for certification of a farmland preservation plan or amendment under s. 91.20 (4).

(g) Specify types of ordinance amendments for which certification is required under s. 91.36 (8) (b) 3.

(h) Specify exceptions to the requirement that land in a farmland preservation zoning district be included in a farmland preservation area under s. 91.38 (1) (g).

1 (i) Specify requirements for certification of a farmland preservation zoning
2 ordinance under s. 91.38 (1) (i).

3 (j) Require information in an application for certification of a farmland
4 preservation zoning ordinance or amendment under s. 91.40 (5).

5 (k) Authorize additional uses in a farmland preservation zoning district under
6 s. 91.42 (4).

7 (L) Authorize additional uses as permitted uses in a farmland preservation
8 zoning district under s. 91.44 (1) (g).

9 (m) Authorize additional uses as conditional uses in a farmland preservation
10 zoning district under s. 91.46 (1) (j).

11 (o) Designate agricultural enterprise areas and modify and terminate
12 designations of those areas under s. 91.84.

13 (p) Require information in an application for a farmland preservation
14 agreement under s. 91.64 (2) (h).

15 (r) Prescribe procedures for compliance monitoring under s. 91.82 (3).

16 **91.03 Intergovernmental cooperation.** State agencies shall cooperate with
17 the department in the administration of this chapter and in other matters related
18 to the preservation of farmland in this state. State agencies shall, to the extent
19 feasible, cooperate in sharing and standardizing relevant information, identifying
20 and mapping significant agricultural resources, and planning and evaluating the
21 impact of state actions on agriculture.

22 **91.04 Department to report.** At least once every 2 years, beginning not later
23 than December 31, 2011, the department shall submit a farmland preservation
24 report to the board of agriculture, trade and consumer protection and provide copies
25 of the report to the department of revenue and the department of administration.

1 The department shall prepare the report in cooperation with the department of
2 revenue and shall include all of the following in the report:

3 (1) A review and analysis of farmland availability, uses, and use trends in this
4 state, including information related to farmland conversion statewide and by county.

5 (2) A review and analysis of relevant information related to the farmland
6 preservation program under this chapter and associated tax credit claims under
7 subch. IX of ch. 71, including information related to all of the following:

8 (a) Participation in the program by political subdivisions and landowners.

9 (b) Tax credit claims by landowners, including the number of claimants, the
10 amount of credits claimed, acreage covered by tax credit claims, the amount of credits
11 claimed under zoning ordinances and under farmland preservation agreements, and
12 relevant projections and trends.

13 (c) The number, identity, and location of counties with certified farmland
14 preservation plans.

15 (d) Trends and developments related to certification of farmland preservation
16 plans.

17 (e) The number, identity, and location of political subdivisions with certified
18 farmland preservation zoning ordinances.

19 (f) Trends and developments related to certification of farmland preservation
20 zoning ordinances.

21 (g) The number, nature, and location of agricultural enterprise areas.

22 (h) The number and location of farms covered by farmland preservation
23 agreements, including new farmland preservation agreements, and the number and
24 location of farms for which farmland preservation agreements have expired.

(i) Conservation compliance by landowners under s. 91.80 and compliance activities by county land conservation committees under s. 91.82.

(j) Rezoning of land out of farmland preservation zoning districts under s. 91.48, including the amounts of conversion fees paid to political subdivisions under s. 91.48 (1) (b).

(k) Program costs, cost trends, and cost projections.

(L) Key issues related to program performance and key recommendations, if any, for enhancing the program.

SUBCHAPTER II

FARMLAND PRESERVATION PLANNING

91.10 County plan required; planning grants. (1) By January 1, 2015, a county shall adopt a farmland preservation plan that does all of the following:

(a) States the county's policy related to farmland preservation and agricultural development, including the development of enterprises related to agriculture.

(b) Identifies, describes, and documents other development trends, plans, or needs, that may affect farmland preservation and agricultural development in the county, including trends, plans, or needs related to population and economic growth, housing, transportation, utilities, communications, business development, community facilities and services, energy, waste management, municipal expansion, and environmental preservation.

(c) Identifies, describes, and documents all of the following:

1. Agricultural uses of land in the county at the time that the farmland preservation plan is adopted, including key agricultural specialities, if any.

2. Key agricultural resources, including available land, soil, and water resources.

1 3. Key infrastructure for agriculture, including key processing, storage,
2 transportation, and supply facilities.

3 4. Significant trends in the county related to agricultural land use, agricultural
4 production, enterprises related to agriculture, and the conversion of agricultural
5 lands to other uses.

6 5. Anticipated changes in the nature, scope, location, and focus of agricultural
7 production, processing, supply, and distribution.

8 6. Goals for agricultural development in the county, including goals related to
9 the development of enterprises related to agriculture.

10 7. Actions that the county will take to preserve farmland and to promote
11 agricultural development.

12 8. Key land use issues related to preserving farmland and to promoting
13 agricultural development and plans for addressing those issues.

14 (d) Clearly identifies areas that the county plans to preserve for agricultural
15 use and agriculture-related uses, which may include undeveloped natural resource
16 and open space areas but may not include any area that is planned for
17 nonagricultural development within 15 years after the date on which the plan is
18 adopted.

19 (e) Includes maps that clearly delineate all areas identified under par. (d), so
20 that a reader can easily determine whether a parcel is within an identified area.

21 (f) Clearly correlates the maps under par. (e) with text that describes the types
22 of land uses planned for each area on a map.

23 (g) Identifies programs and other actions that the county and local
24 governmental units within the county may use to preserve the areas identified under
25 par. (d).

1 (2) If the county has a comprehensive plan, the county shall include the
2 farmland preservation plan in its comprehensive plan and shall ensure that the
3 farmland preservation plan is consistent with the comprehensive plan. The county
4 may incorporate information contained in other parts of the comprehensive plan into
5 the farmland preservation plan by reference.

6 (3) To adopt a farmland preservation plan under sub. (1), a county shall follow
7 the procedures under s. 66.1001 (4) for the adoption of a comprehensive plan.

8 (4) The department may provide information and assistance to a county in
9 developing a farmland preservation plan under sub. (1).

10 (5) A county shall notify the department before the county holds a public
11 hearing on a proposed farmland preservation plan under sub. (1) or on any
12 amendment to a farmland preservation plan. The county shall include a copy of the
13 proposed farmland preservation plan or amendment in the notice. The department
14 may review and comment on the plan or amendment.

15 (6) (a) From the appropriation under s. 20.115 (7) (dm) or (tm), the department
16 may award a planning grant to a county to provide reimbursement for up to 50
17 percent of the county's cost of preparing a farmland preservation plan required under
18 sub. (1). In determining priorities for awarding grants under this subsection, the
19 department shall consider the expiration dates for plan certification under s. 91.14.

20 (b) The department shall enter into a contract with a county to which it awards
21 a planning grant under par. (a) before the department distributes any grant funds
22 to the county. In the contract, the department shall identify the costs that are eligible
23 for reimbursement through the grant.

24 (c) The department may distribute grant funds under this subsection only after
25 the county shows that it has incurred costs that are eligible for reimbursement under

1 par. (b). The department may not distribute more than 50 percent of the amount of
2 a grant under this subsection for a farmland preservation plan before the county
3 submits the farmland preservation plan for certification under s. 91.16.

4 **91.12 Certified plan.** The following farmland preservation plans are
5 certified, for the purposes of this chapter and s. 71.613:

6 (1) An agricultural preservation plan that was certified under s. 91.06, 2007
7 stats., if the certification has not expired.

8 (2) A farmland preservation plan that was certified under s. 91.16 if the
9 certification has not expired or been withdrawn.

10 **91.14 Expiration of plan certification.** (1) The certification of a farmland
11 preservation plan that was certified under s. 91.06, 2007 stats., expires on the date
12 provided in the certification or, if the certification does not provide an expiration
13 date, on the following date:

14 (a) December 31, 2011, for a county with an increase in population per square
15 mile of more than 9 percent.

16 (b) December 31, 2012, for a county with an increase in population per square
17 mile of more than 3.75 percent but not more than 9 percent.

18 (c) December 31, 2013, for a county with an increase in population per square
19 mile of more than 1.75 percent but not more than 3.75 percent.

20 (d) December 31, 2014, for a county with an increase in population per square
21 mile of more than 0.8 percent but not more than 1.75 percent.

22 (e) December 31, 2015, for a county with an increase in population per square
23 mile of not more than 0.8 percent.

24 (2) The certification of a farmland preservation plan that the department
25 certifies under s. 91.16 expires on the date specified under s. 91.16 (2).

1 (3) For the purposes of sub. (1), a county's increase in population per square
2 mile is the percentage by which the county's population per square mile based on the
3 department of administration's 2007 population estimate under s. 16.96 exceeds the
4 county's population per square mile based on the 2000 federal census.

5 **91.16 Certification of plan by the department.** (1) GENERAL. The
6 department may certify a farmland preservation plan or an amendment to a
7 farmland preservation plan as provided in this section.

8 (2) CERTIFICATION PERIOD. (a) The department may certify a farmland
9 preservation plan for a period that does not exceed 10 years. The department shall
10 specify the expiration date of the certification of the farmland preservation plan in
11 the certification.

12 (b) The certification of an amendment to a certified farmland preservation plan
13 expires on the date that the certification of the farmland preservation plan expires,
14 except that the department may treat a comprehensive revision of a certified
15 farmland preservation plan as a new farmland preservation plan and shall specify
16 an expiration date for the certification of the revised farmland preservation plan as
17 provided in par. (a).

18 (3) SCOPE OF DEPARTMENT REVIEW. (a) The department may certify a county's
19 farmland preservation plan or an amendment to the farmland preservation plan
20 based on the county's certification under s. 91.20 (3), without conducting any
21 additional review or audit.

22 (b) The department may do any of the following before it certifies a county's
23 farmland preservation plan or amendment:

24 1. Review the farmland preservation plan or amendment for compliance with
25 s. 91.18.

1 2. Review and independently verify the application for certification, including
2 the statement under s. 91.20 (3).

3 **(4) DENIAL OF CERTIFICATION.** The department shall deny a county's application
4 for certification of a farmland preservation plan or amendment if the department
5 finds any of the following:

6 (a) That the farmland preservation plan or amendment does not comply with
7 the requirements in s. 91.18.

8 (b) That the application for certification does not comply with s. 91.20.

9 **(5) WRITTEN DECISION; DEADLINE.** The department shall grant or deny an
10 application for certification under this section no more than 90 days after the day on
11 which the county submits a complete application, unless the county agrees to an
12 extension. The department shall issue its decision in the form required by s. 227.47
13 (1).

14 **(6) CONDITIONAL CERTIFICATION.** The department may grant an application for
15 certification under this section subject to conditions specified by the department in
16 its decision under sub. (5). The department may certify a farmland preservation plan
17 or amendment contingent upon the county board adopting the farmland
18 preservation plan or amendment as certified.

19 **(7) EFFECTIVE DATE OF CERTIFICATION.** A certification under this section takes
20 effect on the day on which the department issues its decision, except that if the
21 department specifies conditions under sub. (6), the certification takes effect on the
22 day on which the department determines that the county has met the conditions.

23 **(8) EFFECTIVENESS OF PLAN AMENDMENTS.** For purposes of this chapter and s.
24 71.613, a certified farmland preservation plan does not include an amendment

1 adopted after the effective date of this subsection [LRB inserts date], unless the
2 department certifies the amendment.

3 (9) WITHDRAWAL OF CERTIFICATION. The department may withdraw a
4 certification that it granted under sub. (3) (a) if the department finds that the
5 farmland preservation plan materially violates the requirements under s. 91.18.

6 **91.18 Requirements for certification of plan.** (1) A farmland preservation
7 plan qualifies for certification under s. 91.16 if it complies with all of the following:

8 (a) The requirements in s. 91.10 (1) and (2).

9 (b) Any other requirements that the department specifies by rule.

10 (2) An amendment to a farmland preservation plan qualifies for certification
11 under s. 91.16 if it complies with all of the requirements in sub. (1) that are relevant
12 to the amendment and it does not cause the farmland preservation plan to violate
13 any of the requirements in sub. (1).

14 **91.20 Applying for certification of plan.** A county seeking certification of
15 a farmland preservation plan or amendment to a farmland preservation plan shall
16 submit all of the following to the department in writing, along with any other
17 relevant information that the county chooses to provide:

18 (1) The proposed farmland preservation plan or amendment.

19 (2) All of the following background information:

20 (a) A concise summary of the farmland preservation plan or amendment,
21 including key changes from any previously certified farmland preservation plan.

22 (b) A concise summary of the process by which the farmland preservation plan
23 or amendment was developed, including public hearings, notice to and involvement
24 of other governmental units within the county, approval by the county, and
25 identification of any key unresolved issues between the county and other

1 governmental units within the county related to the farmland preservation plan or
2 amendment.

3 (c) The relationship of the farmland preservation plan or amendment to any
4 county comprehensive plan.

5 (3) A statement, signed by the county corporation counsel and the county
6 planning director or chief elected official, certifying that the farmland preservation
7 plan or amendment complies with all of the requirements in s. 91.18.

8 (4) Other relevant information that the department requires by rule.

9 SUBCHAPTER III

10 FARMLAND PRESERVATION ZONING

11 **91.30 Authority to adopt.** A political subdivision may adopt a farmland
12 preservation zoning ordinance.

13 **91.32 Certified ordinance.** The following zoning ordinances are certified, for
14 the purposes of this chapter and s. 71.613:

15 (1) An exclusive agricultural use zoning ordinance that was certified under s.
16 91.06, 2007 stats., if the certification has not expired or been withdrawn.

17 (2) A farmland preservation zoning ordinance that was certified under s. 91.36
18 if the certification has not expired or been withdrawn.

19 **91.34 Expiration of zoning certification.** (1) The certification of a
20 farmland preservation zoning ordinance that was certified under s. 91.06, 2007
21 stats., expires on the date provided in the certification or, if the certification does not
22 provide an expiration date, on the following date:

23 (a) December 31, 2012, for a county with an increase in population per square
24 mile of more than 9 percent or a city, village, or town in such a county.

1 (b) December 31, 2013, for a county with an increase in population per square
2 mile of more than 3.75 percent but not more than 9 percent or a city, village, or town
3 in such a county.

4 (c) December 31, 2014, for a county with an increase in population per square
5 mile of more than 1.75 percent but not more than 3.75 percent or a city, village, or
6 town in such a county.

7 (d) December 31, 2015, for a county with an increase in population per square
8 mile of more than 0.8 percent but not more than 1.75 percent or a city, village, or town
9 in such a county.

10 (e) December 31, 2016, for a county with an increase in population per square
11 mile of not more than 0.8 percent or a city, village, or town in such a county.

12 (2) The certification of a farmland preservation zoning ordinance that the
13 department certifies under s. 91.36 expires on the date specified under s. 91.36 (2).

14 (3) For the purposes of sub. (1), a county's increase in population per square
15 mile is the percentage by which the county's population per square mile based on the
16 department of administration's 2007 population estimate under s. 16.96 exceeds the
17 county's population per square mile based on the 2000 federal census.

18 **91.36 Certification of zoning ordinance by the department. (1)**
19 GENERAL. The department may certify a farmland preservation zoning ordinance or
20 an amendment to a farmland preservation zoning ordinance as provided in this
21 section.

22 (2) CERTIFICATION PERIOD. (a) The department may certify a farmland
23 preservation zoning ordinance for a period that does not exceed 10 years. The
24 department shall specify the expiration date of the certification of the farmland
25 preservation zoning ordinance in the certification.

(b) The certification of an amendment to a certified farmland preservation zoning ordinance expires on the date that the certification of the farmland preservation zoning ordinance expires, except that the department may treat a comprehensive revision of a certified farmland preservation zoning ordinance as a new farmland preservation zoning ordinance and specify an expiration date for the certification of the revised farmland preservation zoning ordinance as provided in par. (a).

(3) SCOPE OF DEPARTMENT REVIEW. (a) The department may certify a farmland preservation zoning ordinance or amendment to a farmland preservation zoning ordinance based on statements submitted under s. 91.40 (3) and (4), without conducting any additional review or audit.

(b) The department may do any of the following before it certifies a farmland preservation zoning ordinance or amendment:

1. Review the farmland preservation zoning ordinance or amendment for compliance with the requirements under s. 91.38.

2. Review and independently verify the application for certification, including the statements under s. 91.40 (3) and (4).

(4) DENIAL OF CERTIFICATION. The department shall deny an application for certification of a farmland preservation zoning ordinance or amendment if the department finds any of the following:

(a) That the farmland preservation zoning ordinance or amendment does not comply with the requirements in s. 91.38.

(b) That the application for certification does not comply with s. 91.40.

(5) WRITTEN DECISION; DEADLINE. The department shall grant or deny an application for certification under this section no more than 90 days after the day on

1 which the political subdivision submits a complete application, unless the political
2 subdivision agrees to an extension. The department shall issue its decision in the
3 form required by s. 227.47 (1).

4 **(6) CONDITIONAL CERTIFICATION.** The department may grant an application for
5 certification under this section subject to conditions specified by the department in
6 its decision under sub. (5). The department may certify a farmland preservation
7 zoning ordinance or amendment contingent upon the political subdivision adopting
8 the farmland preservation zoning ordinance or amendment as certified.

9 **(7) EFFECTIVE DATE OF CERTIFICATION.** A certification under this section takes
10 effect on the day on which the department issues the certification, except that if the
11 department specifies conditions under sub. (6), the certification takes effect on the
12 day on which the department determines that the political subdivision has met the
13 conditions.

14 **(8) AMENDMENTS TO ORDINANCES; CERTIFICATION.** (a) Except as provided in par.
15 (b), an amendment to a certified farmland preservation zoning ordinance is
16 automatically considered to be certified as part of the certified farmland preservation
17 zoning ordinance.

18 (b) An amendment to a certified farmland preservation zoning ordinance that
19 is one of the following and that is adopted after the effective date of this paragraph
20 [LRB inserts date], is not automatically considered to be certified:

21 1. An amendment that is a comprehensive revision of a certified farmland
22 preservation zoning ordinance.

23 2. An amendment that extends coverage of a certified farmland preservation
24 zoning ordinance to a town that was not previously covered.

1 3. An amendment of a type specified by the department by rule that may
2 materially affect compliance of the certified farmland preservation zoning ordinance
3 with the requirements under s. 91.38.

4 (c) The department may withdraw certification of a farmland preservation
5 zoning ordinance if, as a result of an amendment adopted after the effective date of
6 this paragraph [LRB inserts date], the amended farmland preservation zoning
7 ordinance fails to comply with the requirements under s. 91.38. This paragraph
8 applies regardless of whether the farmland preservation zoning ordinance was
9 originally certified under s. 91.06, 2007 stats., or under this section.

10 (d) A political subdivision shall notify the department in writing whenever the
11 political subdivision adopts an amendment that is described in par. (b) 1. to 3. to a
12 certified farmland preservation zoning ordinance. The political subdivision shall
13 include a copy of the amendment in the notice. This paragraph does not apply to an
14 amendment that rezones land out of a farmland preservation zoning district.

15 **91.38 Requirements for certification of ordinance.** (1) A farmland
16 preservation zoning ordinance does not qualify for certification under s. 91.36 unless
17 all of the following apply:

18 (a) The farmland preservation zoning ordinance includes jurisdictional,
19 organizational, and enforcement provisions that are necessary for proper
20 administration.

21 (c) The farmland preservation zoning ordinance clearly designates farmland
22 preservation zoning districts in which land uses are limited in compliance with s.
23 91.42.

24 (d) The farmland preservation zoning ordinance includes maps that clearly
25 delineate each farmland preservation zoning district, so that a reader can easily

1 determine whether a parcel is within a farmland preservation zoning district; that
2 are correlated to the text under par. (e); and that comply with technical specifications
3 that the department establishes by rule.

4 (e) The text of the farmland preservation zoning ordinance clearly describes the
5 types of land uses authorized in each farmland preservation zoning district.

6 (f) The farmland preservation zoning ordinance is substantially consistent
7 with a certified farmland preservation plan.

8 (g) Except as provided by the department by rule, land is not included in a
9 farmland preservation zoning district unless the land is included in a farmland
10 preservation area identified in the county certified farmland preservation plan.

11 (h) If an overlay district, such as an environmental corridor, is superimposed
12 on a farmland preservation zoning district, all of the following apply:

13 1. The farmland preservation zoning ordinance clearly identifies the overlay
14 district as such.

15 2. The overlay district is shown on the maps under par. (d) in a way that allows
16 a reader to easily identify the underlying farmland preservation zoning district and
17 its boundaries.

18 3. The overlay district does not remove land use restrictions from the
19 underlying farmland preservation zoning district.

20 (i) The farmland preservation zoning ordinance complies with any other
21 requirements that the department specifies by rule.

22 (2) An amendment to a farmland preservation zoning ordinance qualifies for
23 certification under s. 91.36 if it complies with all of the requirements in sub. (1) that
24 are relevant to the amendment and it does not cause the farmland preservation
25 zoning ordinance to violate any of the requirements in sub. (1).